REMARKS

The Applicants and the undersigned thank Examiner Bartley for the careful review of this application. Claims 1-40 and 42-44 have been rejected by the Examiner. Applicants have amended Claims 1, 18 and 35 and canceled Claims 3, 4, 8-17, 22, and 25-34. Upon entry of these amendments, Claims 1, 2, 5-7, 18-21, 23, 24, 35-40 and 42-44 remain pending in this application. The independent claims are Claims 1, 18, and 35. Consideration of the present application is respectfully requested in light of the above amendments and the following remarks.

I. Rejection Under 35 U.S.C. § 101

The Examiner rejected independent Claims 18 and 25, and the claims that depend thereon, under 35 U.S.C. § 101. The Examiner asserts that the claims "teach a method for using an evaluator software module, but there is no apparatus to support this method. Specifically, the Supreme Court has held that a claim reciting an algorithm or abstract idea can state statutory subject matter only if, as employed in the process, it is embodied in, operates on, transforms, or otherwise involves another class of statutory subject matter, i.e., a machine, a manufacture, or composition of matter."

Applicants have addressed this rejection by amending Claim 18 to recite – "A computer-implemented method for using an evaluator software module . . . ." Applicants also have canceled Claim 25. Applicants respectfully submit that these amendments address the rejection under Section 101.

II. Rejection Under 35 U.S.C. § 112

The Examiner rejected independent Claims 1, 8, 18, and 25 on various grounds under Section 112, second paragraph. With respect to paragraph 8 of the Office Action, the Applicants have amended Claims 1 and 4, and canceled Claim 8 to address the Examiner's rejections. With respect to paragraph 9 of the Office Action, the Applicants have canceled Claim 25 and amended Claim 18 to clarify that it is a "computer-implemented method" and to clarify that the evaluator software module is "executing on a computer." Finally, with respect to paragraph 10 of the Office Action, the Applicants have canceled Claim 25 and have amended Claims 1 and 18 to make clear that notice is provided when the identifying information is satisfactory. Applicants respectfully submit that these amendments address the Examiner's rejections under Section 112, second paragraph.

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III. Rejections Under 35 U.S.C. § 103

A. Independent Claim 1

The Examiner rejected Claim 1 as obvious in view of the combination of U.S. Published Patent Application No. 2001/0047326 A1 to Broadbent, et al. ("Broadbent") and U.S. Patent No. 6,988,082 to Williams et al. ("Williams"). Applicants respectfully submit that independent Claim 1, as amended, is patentably distinct from the combination of Broadbent and Williams.

Applicants have amended Claim 1 to include the limitation previously recited in dependent Claim 4, namely comparing the identifying information to market hurdle data. With this amendment, Claim 1 recites a two-step process whereby, first, the identifying information is compared to market hurdle data, and, second, if the identifying information is acceptable, the probability of approval is determined based on product specific information. Applicants respectfully submit that Broadbent and Williams, neither alone nor in combination, teach this two-step process recited in amended Claim 1.

In the Office Action, the Examiner rejected previous Claim 4 as disclosed by paragraph 0080 of Broadbent. (See page 14 of Office Action.) However, Applicants submit that paragraph 0080 of Broadbent describes a final step in an automated loan application process where no loan products are available based on a complete application that is submitted. (See paragraphs 0073-0080.)

In contrast, the step in amended Claim 1 reciting a comparison to market hurdle data is based only on limited identifying information. As explained at page 10, lines 18-30 and in Figure 4A of the specification, this initial comparison step serves as a preliminary filter before proceeding with the probability determination, which is based on product specific information. Applicants respectfully submit that the two-step process recited in amended Claim 1 is patentably distinct from the teachings of Broadbent and Williams.

B. Independent Claim 18

The Examiner rejected independent Claim 18 as obvious in view of the combination of Broadbent, Williams, and an article by Kevin Winkler entitled "Technology for Risk-Based Pricing and Management" published in Mortgage Banking ("Winkler"). Applicants respectfully submit that independent Claim 18, as amended, is patentably distinct from the combination of Williams, Broadbent, and Winkler.

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Similar to the argument set forth with respect to Claim 1 above, Applicants have amended Claim 18 to include the step of comparing the identifying information to the market hurdle data. Thus, amended Claim 18 now recites a two-step process whereby the identifying information is evaluated against market hurdle data and, if acceptable, product specific information is used to determine a range of acceptable prices for the proposed real estate transaction. Applicants respectfully submit that none of the cited references disclose this two-step process for evaluating a real estate transaction.

The Examiner also contends the Winkler reference teaches "receiving a range of acceptable prices for the real estate transaction based on the product specific information." Applicants respectfully submit that Winkler does not disclose providing a range of acceptable prices as recited in Claim 18. Instead, with respect to risk-based pricing, Winkler describes a system that seeks greater efficiency by offering "a customer-specific rate." (Winkler, p. 80, 2nd column, 1st full paragraph.) Winkler teaches away from a range of acceptable prices in that it states the lender "would not be willing to reduce your rate by even 1 basis point if the prospect refused to accept the rate." (Id.) Winkler is focused on providing one custom rate to each customer based on prepayment risk and credit risk for the prospect. (Id.)

Accordingly, Applicants submit that Broadbent, Williams, and Winkler do not disclose the invention recited in Claim 18.

C. Independent Claim 35

The Examiner also rejects Claim 35 in view of Broadbent, Williams and Winkler. Applicants respectfully submit that amended Claim 35 is patentably distinct from the cited art because it recites determining and presenting a range of acceptable prices. Similar to the argument presented above in connection with Claim 18, none of the cited references disclose presenting a range of acceptable prices for a proposed real estate transaction. Winkler, in particular, describes a method for risk-based pricing where the goal is to increase efficiency by providing each customer with a custom rate based on the customer's profile. (Winkler, p. 80, 2nd column, 1st full paragraph.) Accordingly, Applicants submit that amended Claim 35 is patentable.

D. Rejection of Dependent Claims 5-6, 16, 20, 23 and 33 Based on Official Notice

The Examiner rejected dependent Claims 5-6, 16, 20, 23 and 33 and cited U.S. Patent No. 7,225,153 to Lange ("Lange") to support his view that "creating and displaying curves in order

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to perform financial analysis is old and well known." Applicants have canceled Claims 16 and 33. However, Applicants respectfully traverse the Examiner's position that Lange discloses the steps recited in Claims 5, 6, 20 and 23.

While Lange may disclose the general concept of a price curve, it is described in the context of an electronic trading platform for demand-based adjustable returns on financial instruments. Applicants submit that Lange's teachings are not applicable to evaluating the size of a proposed loan in connection with a real estate transaction as recited in Claims 5, 6, 20 and 23. Moreover, Lange does not disclose: 1) calculating a loan size array; 2) calculating minimum, maximum, and proceed cutoff curves; and 3) determining the position of the amount of the product in relation to the curves. Therefore, Applicants respectfully submit that the recitations of Claims 5, 6, 20, and 23 are patentably distinct from Lange and are not well known.

E. Dependent Claims

Each of Claims 2, 5-7, 19-21, 23, 24, 36-40 and 42-44 depends directly or indirectly from one of the independent claims discussed above. Accordingly, for at least the reasons discussed above with respect to the independent claims, Applicants submit that the dependent claims are likewise patentable over at least the cited references. The dependent claims also recite additional features that further define the claimed invention over the cited references. Accordingly, Applicants request separate and individual consideration of each dependent claim.
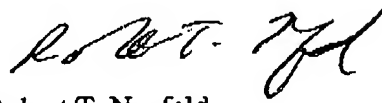
Applicants have not addressed each specific rejection of the dependent claims because Applicants submit that the independent claims are allowable over the documents of record, as discussed above. Applicants have not acquiesced to any such rejections and reserve the right to address the patentability of any additional claim features in the future.

CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed on January 30, 2008. The Applicants and the undersigned thank Examiner Bartley for considering these amendments and remarks. The Applicants respectfully submit that the present application is in condition for allowance and such action is hereby solicited. If any issues remain that may be resolved by telephone, the Examiner is requested to call the undersigned in Atlanta at 404.572.3505.

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Respectfully submitted,

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